

# City of Arlington Natural Gas Program-Issues Discussion Topics

for the

## Planning and Zoning Commission Work Session

March 24, 2010

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Below are comments from **MMA, Chesapeake, Vantage Energy, and Titan Operating**, *in italics and red*, regarding the proposed changes to the City of Arlington Gas Well Ordinance.

### 1. SPECIFIC USE PERMIT PROCESS AND TIMING:

Current Procedure:

- A. SUP's expire after 1 year-unless permit issued and drilling commenced on the site.
- B. After first drilled well, SUP has indefinite validity (no expiration)
- C. Boundary defined by metes and bounds description

Staff Recommendations:

- A. Set time limit for the SUP (still allow additional SUP's on same site)
- B. SUP boundaries to follow current parcel or tract boundary.

#### **Comments:**

- 1. *The limit of 5 cases on a P&Z or City Council agenda prolongs the process of drilling wells. (See Staff Recommendation A)*
- 2. *Setting a time limit on SUP's is a bad idea and could incur the need for additional well sites.*
- 3. *If drilling operators have to go back thru the process to obtain another zoning request it will prolong the time needed to drill all the wells.*
- 4. *There are already a number of factors which limit the timing and speed of drilling (i.e. leases, surface use agreements, state requirements, etc.). If the city's goal is to have the wells drilled as fast as possible, this recommendation (i.e. time limit on SUP's) would do the opposite, **not speed things up**.*
- 5. *The gas well permit process currently sets time limits on the number of wells and when they expire.*
- 6. *An SUP time limit could duplicate the process of the gas well permit process (i.e. gas well expirations). Setting time limits on an SUP is ultimately doing the same thing twice (i.e. double dipping).*
- 7. *The goal is to have gas well sites coexist with future or existing development. By defining the drilling area, by metes and bounds, the maximum site area to be used for drilling is outlined. It's a bad idea to have the SUP boundary follow the current parcel or tract.*
- 8. *This could possibly limit the future development of a larger parcel, if it is encumbered by an SUP for the entire tract. Identifying the drilling/fracing area works well by providing a metes and bounds description.*
- 9. *Most property owners adjacent to drill sites do not want operators to drill constantly. Adjacent property owners do not want constant drilling for months but rather would like a reprieve for a while before drilling comes back.*
- 10. *Timelines hurt the economic viability of potential well sites. It is not in the best interest of the gas operators, city, or mineral owners to produces wells when natural gas is at a low price.*

#### **Questions:**

- 1. *If the SUP boundary is to follow the current parcel or tract, would the future development of the same parcel or tract be affected?*

**Recommendations:**

1. SUP expires 5 years after last well drilled, or
2. The SUP expires if no well has been drilled within 5 years.
3. The SUP and 1<sup>st</sup> gas well permit to be approved by City Council. All other permit requests to be approved administratively and/or staff (Planning Director). Allow for an appeal process to the City Council if there are disagreements from stipulations imposed by staff.
4. Administrative approvals will streamline the timeline in which the wells could be drilled.

**2. NOTIFICATIONS AND PETITIONS:**

Current Procedure:

Zoning:

- A. OPPOSITION;  $\frac{3}{4}$  vote required IF: 20% within proposal; or outside, within 200 feet, protest

Gas Well Permits:

- A. Reduced to not less than 300 feet if: 60% of property owners 300-600 feet around the well consent, or Operator attempts to obtain 60% consent and super-majority vote.

Staff Recommendation:

- A. Increase SUP notification distance to 600 feet.
- B. Require setback reduction petition at SUP stage.

**Comments:**

1. An option to consider is to allow the Planning and Zoning Commission and City Council to consider the SUP and first drilling permit only, requiring the setback reduction petition at zoning.
2. Additional wells could be reviewed and approved administratively unless the operator is requesting an increase in the drill site size and also allowing the ability to appeal any stipulations, made by staff, to the City Council.
3. Wells not located within 600' of protected uses should be approved administratively by the Planning Director. The City of Fort Worth has this in there ordinance.
4. Notification of 600' from boundary of pad is OK.

**Questions:**

1. Absentee landowners are not counted. How does the city define an absentee landowner?
2. Is vacant property considered a protected use?
3. Can vacant residential properties be excluded from the protected use list?

**Recommendations:**

1. Increase the SUP notification distance to 600 feet. Distance shall be measured from the zoning (SUP) legal description provided. If protected uses are affected by a site, **60% waivers must be obtained during the SUP stage**. Waiver distance shall be measured from the well head(s). The waivers shall run with the lot, parcel, or tract for the life of the pad site. The waivers would no longer be needed when applying for a gas well permit.
2. If waivers are required at the SUP stage, they will not be required at the permit stage.



### 3. PLATTING: NOT INCLUDED IN THE COUNCIL'S INITIAL PRESENTATION

#### Staff Recommendation:

- A. Platted lot vs. non-platted
- B. Gerrymander the p. line to avoid notification
- C. City needs easements, dedication etc in platting
- D. Difference in development of another property

#### Comments:

1. *Platting affects the end user as well as the gas operator.*
2. *Compare gas pads to franchise utilities. Gas pad is like an electric substation in regards to use and appearance. Electric substations are more visible than most gas well pads.*
3. *Require platting at the development of the final well.*
4. *If platting becomes required, allow the plat to be approved with deferred conditions. Future development would not like deferred conditions.*
5. *City wants gas well operators to dedicate city easements and right-of-way, which is difficult if the operator has a SUA (Surface Use Agreement), and is not the property owner.*
6. *The way leases are written, cannot get easements from land owners. Gas well operators will have hands tied.*
7. *Sometimes conditions of a lease do not allow platting of property. Gas well operators do not have control of this if in the lease.*
8. *Gas well sites do not need utility extensions.*
9. *Gas well operators are not gerrymandering the sites to avoid notification. They are purely following ordinance requirements and trying to locate sites and wells in locations which affect the fewest number of people.*
10. *Platting requires a number of things which can encumber a property and limit the future development (i.e. easements, access to lots).*
11. *Gas operators have to respect previous lease agreements. Platting may be excluded from an agreement.*
12. *We feel the platting requirement stems from requiring landscaping on the street frontages for some gas well sites. As some sites are not located on property owned by gas well operators it is sometimes difficult to receive approval from land owners. We believe staff feels like platting a property will allow for the enforcement of landscape installation.*

#### Questions:

1. *If the city desires street frontage landscaping, can gas well operators just ask for approval from land owner and not encumber the property with easements, which may negatively affect the ultimate development of the property?*

#### Recommendations:

1. *In lieu of platting, a **covenant shall be placed** on the entire lot or tract the gas well site is located on. The covenant shall be for landscaping requirements placed on a site, due to adjacent protected uses or proximity to major thoroughfares. **The covenant shall cease to exist upon the development, platting, or sale of the property for future development.** Covenant provisions would be required on all new surface use leases dated xx/xx2010. Operator would make a good faith effort to obtain such covenants on existing surface use leases, but cannot guarantee surface owner's consent.*
2. *If a surface lease or property owner does not allow the installation of landscaping on their property, allow for the operator to pay into a "tree fund". The denial of installing landscaping on a leased property must be obtained in writing, and from the current owner, or his assigned agent.*
3. *Enable the use of "deferred conditions" for gas well sites. Platting shall not be required for gas well sites as leases may not allow for it. Conditions could be deferred when platting is required for future development (i.e. Conditions must be applied when the remaining property is developed for another use).*